



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

MAY 20 10 03 AM '94

DISSENTING OPINION
OF
VICE CHAIRMAN DANNY LEE MCDONALD
COMMISSIONER SCOTT E. THOMAS
ADVISORY OPINION 1994-7

In our opinion, a corporation provides "indirect compensation" to an employee when it gives the employee the right to make a charitable donation selection in return for that employee's political contribution to the corporation's separate segregated fund. The Commission's regulations generally prohibit any "means of exchanging treasury monies for voluntary contributions," 11 C.F.R. §114.5(b) and, more particularly, the regulations squarely prohibit indirect compensation: "A contributor may not be paid for his or her contribution through a bonus, expense account, or other form of direct or indirect compensation." 11 C.F.R. §114.5(b)(1) (emphasis added). Adhering to our view that corporate charitable donation matching plans such as this involve indirect compensation barred by both the Commission's regulations as well as the general prohibition on corporate contributions found at 2 U.S.C. §441b, we dissent. See Advisory Opinion 1989-7, 2 Fed. Elec. Camp. Fin. Guide (CCH) ¶5958 (Dissenting Opinions of Commissioner Thomas and Commissioner McDonald).

We note with interest the recent surge of PAC-generated advisory opinion requests which the Commission has received regarding corporate charitable donation matching plans, see Advisory Opinions 1994-3, 1994-6 and 1994-7, even though the proposed plans are strikingly "similar to those approved by the Commission in the past." See Advisory Opinions 1994-6 at 3 and 1994-7 at 3 *citing* Advisory Opinions 1990-6, 1989-9 and 1986-7 at 2 Fed. Elec. Camp. Fin. Guide (CCH) ¶¶5984, 5960 and 5958, respectively. Apparently, the PAC community cannot believe that the Commission would allow the exchange, albeit indirectly, of corporate treasury monies for political contributions. Neither can we.

5/19/94
Date

Danny Lee McDonald
Danny Lee McDonald
Vice Chairman

19 May 1994
Date

Scott E. Thomas
Scott E. Thomas
Commissioner